

1 Matthew Franklin Jaksa (CA State Bar No. 248072)
2 HOLME ROBERTS & OWEN LLP
3 560 Mission Street, 25th Floor
4 San Francisco, CA 94105-2994
5 Telephone: (415) 268-2000
6 Facsimile: (415) 268-1999
7 Email: matt.jaksa@hro.com

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10 Attorneys for Plaintiffs,
11 UMG RECORDINGS, INC.; CAPITOL
12 RECORDS, INC.; FONOVISA, INC.; and
13 INTERSCOPE RECORDS

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SBA

14 UNITED STATES DISTRICT COURT
15 NORTHERN DISTRICT OF CALIFORNIA

16 UMG RECORDINGS, INC., a Delaware
17 corporation; CAPITOL RECORDS, INC., a
18 Delaware corporation; FONOVISA, INC., a
19 California corporation; and INTERSCOPE
20 RECORDS, a California general partnership,
21 Plaintiffs,

22 v.

23 JOHN DOE,
24 Defendant.

CV 08 1038

CASE NO. EX PARTE APPLICATION FOR LEAVE
TO TAKE IMMEDIATE DISCOVERY

1 Plaintiffs, through their undersigned counsel, pursuant to Federal Rules of Civil Procedure 26
 2 and 45, the Declaration of Carlos Linares, and the authorities cited in the supporting Memorandum
 3 of Law, hereby apply *ex parte* for an Order permitting Plaintiffs to take immediate discovery.

4 In support thereof, Plaintiffs represent as follows:

5 1. Plaintiffs, record companies who own the copyrights in the most popular sound
 6 recordings in the United States, seek leave of the Court to serve limited, immediate discovery on a
 7 third party Internet Service Provider (“ISP”) to determine the true identity of Defendant John Doe,
 8 who is being sued for direct copyright infringement.¹

9 2. As alleged in the complaint, Defendant John Doe, without authorization, used an
 10 online media distribution system to download Plaintiffs’ copyrighted works and/or distribute
 11 copyrighted works to the public. Although Plaintiffs do not know the true name of Defendant John
 12 Doe, Plaintiffs have identified Defendant by a unique Internet Protocol (“IP”) address assigned to
 13 Defendant on the date and time of Defendant’s infringing activity.

14 3. Plaintiffs intend to serve a Rule 45 subpoena on the ISP seeking documents that
 15 identify Defendant’s true name, current (and permanent) address and telephone number, e-mail
 16 address, and Media Access Control (“MAC”) address. Without this information, Plaintiffs cannot
 17 identify Defendant John Doe or pursue their lawsuit to protect their copyrighted works from repeated
 18 infringement.

19 4. Good cause exists to allow Plaintiffs to conduct this limited discovery in advance of a
 20 Rule 26(f) conference where there are no known defendants with whom to confer.

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25 1 Because Plaintiffs do not yet know Defendant’s true identity, Plaintiffs are unable to
 26 personally serve Defendant with a copy of this motion. Instead, Plaintiffs will serve the Clerk of
 27 Court pursuant to Fed. R. Civ. P. 5(b)(2)(C) (“If the person served has no known address, [service
 28 under Rule 5(a) is made by] leaving a copy with the clerk of the court.”) and will serve Defendant’s
 ISP with a copy of this motion. Additionally, if the Court grants this motion, Plaintiffs will ask the
 ISP to notify the Defendants of the subpoena and provide Defendant with an opportunity to object.

1 WHEREFORE, Plaintiffs apply *ex parte* for an Order permitting Plaintiffs to conduct the
2 foregoing requested discovery immediately.

3 Dated: February 21, 2008

HOLME ROBERTS & OWEN LLP

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5 By: _____
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MATTHEW FRANKLIN JAKSA
7 Attorney for Plaintiffs
8 UMG RECORDINGS, INC.; CAPITOL
9 RECORDS, INC.; FONOVISA, INC.; and
10 INTERSCOPE RECORDS